



2024:TSHC:18926

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THURSDAY, THE SEVENTH DAY OF MARCH  
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE SAMBASIVARAO NAIDU

SECOND APPEAL NOS: 258 AND 290 OF 2017

**SA NO.258 OF 2017 :**

This Second Appeal is filed under Section 100 of Civil Procedure Code against the judgment and decree dated 27.09.2016 passed in AS No.224 of 2012 on the file of the Court of the VI Additional District and Sessions Judge, Ranga Reddy at Malkajiri, preferred against the judgment and decree dated 18.04.2012 passed in OS No.655 of 2006 on the file of the Court of the Principal Junior Civil Judge at Medchal, Ranga Reddy District.

Between:

S Shashi Rekha, W/o S. Satyanarayana Reddy, Aged about 30 years, Occ -  
House wife, R/o. H-No.18/B, Bapujinagar, Main Y Road, Bowenpally,  
Secunderabad

...APPELLANT/APPELLANT/DEFENDANT NO.1

AND

1. Linga Hari Shankar, S/o. L. Jayaramulu, (Died) per Lrs 3 to 10)  
..RESPONDENT/RESPONDENT/PLAINTIFF
2. Linga Leelamma, W/o. Nagabhushanam, Aged about 81 years, Occ -  
Housewife, R/o.H.No.13-1-70/1, Malakjiri, R.R. District.
3. Linga Bharathamma,, W/o. Late Linga Hari Shankar, Aged about 75 years,  
Occ Household, R/o.H.No.1-269, Vinayak Nagar-2, Opposite Bus Stop,  
Medchal, Medchal-Malkajiri District-501401.
4. Linga Ramchander,, S/o. Late Linga Hari Shankar, Aged about 58 years, Occ  
Business, R/o.H.No.1-269, Vinayak Nagar-2, Opposite Bus Stop, Medchal,  
Medchal-Malkajiri District-501401.
5. Palepu Padhma, D/o. Late Linga Hari Shankar, Aged about 56 years, Occ  
Household, R/o.3-11-108, Vanjarevada, Bhuvanagiri, Nalgonda District,  
Telangana-08116.
6. Linga Raju,, S/o. Late Linga Harishankar, Aged about 55 years, Occ  
Business, R/o.Plot No.52, H.B. Colony, Medchal, Medchal Malkajiri District  
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7. Thota Lalitha,, W/o. Thota Ramesh, D/o. Late Linga Hari Shankar, Aged  
about 48 Years, Occ Household, R/o.P.No.32, 33, Sravan Residency, Surya  
Nagar Colony, Medchal, Medchal Malkajiri District 501401.
8. Bommidala Hymavathi,, W/o. B. Vinay Kumar, D/o. Late Sri. Linga Hari  
Shankar, Aged about 48 years, Occ Household, R/o. H.No.4-32-275, Old Post  
Office Line, NLB Nagar, Shapur Nagar, Quthbullapur Mandal, Medchal  
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9. Linga Chander,, S/o. Late Linga Hari Shankar, Aged about 48 years, Occ Business, R/o.1-269, Vinayak Nagar-2, Opposite Bus Stop, Medchal, Medchal Malkajgiri District 501401.
  10. Linga Krishna, S/o. Late Linga Hari Shankar, Aged about 46 years, Occ Business, R/o.1-269, Vinayak Nagar-2, Opposite Bus Stop, Medchal, Medchal Malkajgiri District 501401.
- (Respondent Nos.3 to 10 are brought on record as per LRs of the deceased Respondent No.1 vide Court Order dated 28.08.2023 in IA No.3/2023)  
...RESPONDENT/RESPONDENT/DEFENDANT NO.2

I.A. NO: 1 OF 2017(SAMP. NO: 612 OF 2017)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to Stay all further proceedings in OS NO.655/2006 DT.18.04.2012 on the file of the Court of the Principal Junior Civil Judge, Medchal, Ranga Reddy District, which was confirmed in AS No.224/2012 dt.27.09.2016 on the file of the Court of the XVI Additional District and sessions Judge, Ranga Reddy District, at Malkajgiri, pending disposal of the Appeal.

SA NO: 290 OF 2017

This Second Appeal is filed under Section 100 of Civil Procedure Code against the judgment and decree dated 27.09.2016 passed in AS No.223 of 2012 on the file of the Court of the XVI Additional District and Sessions Judge, Ranga Reddy District at Malkajgiri preferred against the judgment and decree dated 18.04.2012 passed in OS No.753 of 2006 on the file of the Court of the Principal Junior Civil Judge at Medchal, Ranga Reddy District.

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S Shashi Rekha, W/o. S. Satyanarayana Reddy, Aged about 30 years, Occ - House wife, R/o. H-No.18/B, Bapujinagar, Main Road, Bowenpally, Secunderabad

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2. Linga Ram Chander, S/o Linga Hari Shanker, Aged about 44 years, Occ - Business,
3. Linga Rajashekar, S/o Linga Hari Shanker, Aged about 39 years, Occ - Business,
4. Linga Venkatesh, S/o Linga Hari Shanker, Aged about 34 years, Occ - Business All are RJo. Medchal Village and Mandal, Ranga Reddy District.
5. Linga Bharathamma, W/o. Late Linga Hari Shankar, Aged about 75 years, Occ Household, R/o.H.No.1-269, Vinayak Nagar-2, Opposite Bus Stop, Medchal, Medchal-Malkajgiri District-501401.
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8. Bommidala Hymavathi,, W/o. B. Vinay Kumar, D/o. Late Sri. Linga Hari Shankar, Aged about 48 years, Occ Household, R/o. H.No.4-32-275, Old Post Office Line, NLB Nagar, Shapur Nagar, Quthbullapur Mandal, Medchal Malkajgiri District 500 055.
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(Respondent Nos. 5 to 10 are brought on record as per LRs of the deceased respondent No.1 vide Court Order dated 28.08.2023 in IA No.3/2023)

I.A. NO: 1 OF 2017(SAMP. NO: 674 OF 2017)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant injunction restraining the Respondents in interfering with the peaceful possession and enjoyment of the Suit Schedule properties of the Petitioner/Appellant herein i.e., SCHEDULE OF PROPERTY All that agricultural land admeasuring Ac.0.09 gts. in Sy.No.291/A, situated at Girmapur Village & Gram Panchayat, Ranga Reddy District and bounded by:- NORTH : Agricultural lands of Mumtaz Shareef SOUTH Agricultural lands of V. Sai Reddy EAST: Agricultural lands of P.Venkata Subbaiah WEST Agricultural lands of Mulugu Balaiah.

SA NOS: 258 AND 290 OF 2017 :

COUNSEL FOR THE APPELLANT :SRI SETTY RAVI TEJA (IN BOTH SAs)  
COUNSEL FOR THE RESPONDENTS: SRI VENKATESH DESHPANDE (IN BOTH SAs)

THIS COURT DELIVERED THE FOLLOWING JUDGMENT :



2024:TSHC:18926

**THE HON'BLE SRI JUSTICE SAMBASIVARAO NAIDU**

**SECOND APPEAL Nos.258 AND 290 OF 2017**

**COMMON JUDGMENT:**

These two(2) Second Appeals have been filed by the unsuccessful appellant in A.S.Nos.223 of 2012 and 224 of 2012 on the file of XVI Additional District and Sessions Judge, Ranga Reddy under Section 100 of Code of Civil Procedure, 1908 (for short "CPC") assailing the Judgments in the above referred 1<sup>st</sup> appeals on various grounds.

2. As could be seen from the record, one Linga Harishankar has filed a suit in O.S.No.655 of 2006 against Smt.S.Shashirekha and Smt.Linga Leelamma for declaration of title as absolute owner and possessor of the property shown in the plaint schedule and cancellation of registered sale deed vide document No.9363 of 2006, dated 13.07.2005. Whereas the said Shashirekha has filed O.S.No.753 of 2006 against the plaintiff Hari Shankar and three(3) others for perpetual injunction in respect of the suit schedule property. In view of the memo filed by both the parties in the above referred suits, the trial Court

clubbed these two suits and disposed them under a common Judgment, dated 18.04.2012 and passed a decree in favour of the plaintiff in O.S.No.655 of 2006 and dismissed the other suit filed by Shashirekha vide O.S.No.753 of 2006.

3. Being aggrieved by the Judgment in the above referred suits, the said Shashirekha has filed two 1<sup>st</sup> appeals vide A.S.Nos.223 of 2012 and 224 of 2012. However, the 1<sup>st</sup> appellate Court having re-appreciated the evidence and after considering the arguments of both parties, dismissed the appeals under a common Judgment dated 27.09.2016.

4. Feeling aggrieved by the Judgment, the appellant has filed these second appeals on the following grounds:

The Judgment and Decree, dated 27.09.2016 is contrary to law, weight of evidence. The 1<sup>st</sup> appellate Court failed to see that originally one Sri Linga Nagabhusanam was the absolute owner and possessor of suit schedule property. His name was recorded as pattadar and possessor in khasra pahani for the year 1954-55 and also



in the subsequent revenue records. The 1<sup>st</sup> appellate Court ought to have appreciated that the said Nagabhushanam has executed a Will in favour of his wife Smt.Linga Leelamma and bequeathed the suit schedule properties. Therefore after his death, the said Leelamma became the owner of the suit schedule property. The 1<sup>st</sup> appellate Court failed to see that the appellant Shashirekha purchased the suit schedule property from Leelamma under a registered sale deed, dated 13.07.2005 and was in possession of the property. The plaintiff in O.S.No.655 of 2006 having filed suit for declaration of title, tried to interfere with the possession and enjoyment of Smt.Shashirekha. Therefore, she was forced to file O.S.No.753 of 2006. The appellant has claimed that the 1<sup>st</sup> appellate Court failed to see that the revenue authorities having contemplated the procedure in Andhra Pradesh Rights in Land and Pattadar Passbooks Act,1971 and rules made there under issued pattadar passbook-cum-title deed in favour of the appellant and the same were marked as Exs.B2 to B9. The 1<sup>st</sup> appellate Court failed to note that the appellant was in possession and enjoyment of property since from the date



of her purchase. The Courts below failed to consider that as per the settled principles of law, pattadar passbook and title deed have got evidentiary value, and those records are in favour of the appellant, thereby ought not to have dismissed her appeals.

5. Even though the appellant has raised number of questions on the guise of they being substantial questions of law, S.A.No.258 of 2017 has been admitted on the following substantial questions of law:

- 1) Whether the trial Court and first appellate Court are right by holding first defendant-appellant herein, has to prove his case despite the fact that the suit has been filed by the respondent/plaintiff for declaration and cancellation of the sale deed?
- 2) Whether the trial Court and first appellate Court are right by shifting the burden on the defendant by ignoring Section 101 of Indian Evidence Act?
- 3) Whether the Courts below are right in considering the unregistered Ekarnama which is marked as Ex.A1?

6. S.A.No.290 of 2017 has been admitted on the following substantial questions of law:



- 1) Whether the trial Court and first appellate Court are correct in considering the unregistered Ekarnama which is marked as Ex.A1 and in discarding the evidence of registered sale deed and other revenue records placed by the appellants?
- 2) Whether the Courts below are right in placing the burden of disproving the evidence of plaintiff on the defendant?

7. Before advertng to the grounds on which the appeals are filed and substantial questions that were formulated in these appeals, it is just and necessary to have a look over the pleadings and evidence of both parties in both the above referred original suits.

8. As could be seen from the grounds on which the appeals are filed, it is the specific contention of appellant that he has purchased the suit schedule property under a register sale deed from one Lingala Leelamma who said to have acquired the property by virtue of a Will Deed. Therefore, in pursuance of the sale deed executed by said Leelamma, he was given pattadar passbook and revenue record as such he has got right, title and possession. Whereas the plaintiff in O.S.No.655 of 2006 has claimed

that he is absolute owner and possessor of the suit schedule property, having acquired the same under a family settlement between the family members by virtue of Ekararnama, dated 29.01.1978.

9. The plaintiff in O.S.No.655 of 2006 has claimed that the paternal grandfather of plaintiff by name Linga Naganna was the absolute owner and possessor of several agricultural land and house properties at Girmapur and Railpur Villages Medchal Mandal. He has got 4 sons by name; L.Venkata Narayana, L.Venkata Krishnaiah, L. Anjaiah and L.Jaya Ramulu. Among these 4 sons, Anjaiah and Jaya Ramulu had issues, whereas the other two sons Venkata Narayana and Venkata Krishnaiah died issueless. The plaintiff is son of Linga Jayaramulu. Whereas Linga Anjaiah had (2) sons by name Nagabhushanam and Venkataiah. The said Naganna has got agricultural land to an extent of Ac.16-00 in SY.No.291/A and and extent of 15 gts., in Sy.No.279/AA and one house at Girmapur Village, Naganna used to manage the properties till his death, and after his death, his 3<sup>rd</sup> son Anjaiah was managing the



affairs of the family. He has also claimed that Venkata Narayana, Venkata Krishnaiah and Jaya Ramulu never shown any interest in managing the affairs of the family. The plaintiff was the youngest son among the three(3) grandsons of Naganna. As such, he reposed confidence on Nagabhushanam and Venkataiah.

10. However, contrary to his belief, they have mismanaged the properties and alienated several properties without his knowledge. Therefore, he questioned their acts and sought for partition of the properties. As such, there was an understating between the family members and they executed an Ekrarnama on 29.01.1978. As per the said Eararnama, plaintiff was given a house and land in Sy.No.279/AA and 291/A, locally known as Chandraiah Chenu and Padamati Koruma Katta and another landed property in Sy.No.3 known as Gundu Chelka. Therefore, the plaintiff in O.S.No.655 of 2006 claimed absolute title, possession over the property and prayed for cancellation of the sale deed executed by Leelamma in favour of the appellant herein.

11. The parties have adduced oral and documentary evidence. The trial Court came to the conclusion that the appellant herein was not able to prove her title or possession. Whereas the plaintiff in O.S.No.655 of 2006 was able to prove the above referred Ekararnama by which he got the properties and also his possession on the suit schedule properties. Consequently, passed a decree in favour of the plaintiff in O.S.No.655 of 2006 while dismissing the other suit vide O.S.No.753 of 2006.

12. When these appeals are taken up for hearing, learned counsel for the appellant made an attempt to impress this Court that by virtue of document under which the respondent-plaintiff said to have acquired title, is a document which required stamp duty and penalty apart from registration. Since it was un-registered and un-stamped document, it cannot be a basis for declaration of title of respondent-plaintiff. Whereas the appellant herein was able to prove the sale deed as well as the right of her vendor by virtue of a Will, as such the Court below ought



not to have dismissed the suit, filed by the appellant and ought to have dismissed the suit filed by the respondent.

13. As per the evidence placed before the trial Court in both the suits, it seems the plaintiff Hari Shankar had been examined as PW1. Whereas the appellant who did not chose to examine herself as a witness, examined one Satyanarayana Reddy as DW1 and one Rama Swamy as DW2. The plaintiff in O.S.No.655 of 2006 has marked Exs.A1 to A14. Whereas the plaintiff in O.S.No.753 of 2006 has marked Exs.B1 to B9. The appellant herein did not produce the alleged Will through which her vendor said to have acquired the title over the property. The certified copy of sale deed executed by Leelamma in favour of the appellant has been marked a Ex.B1, Ex.B2 is the proceedings by the revenue official, Ex.B3 is the pattadar passbook and Ex.B4 is the original title deed. Rest of the documents are certified copies of pahanies of various years. Whereas the respondent who is plaintiff in O.S.No.655 of 2006 could produce the original Ekrarnama dated 29.01.1978 as Ex.A1 and its translation has been marked



as Ex.A2. The pattadar passbook and other documents including the pahanies were marked as Exs.A7 to A14.

14. In a suit for declaration of title, the plaintiff is expected to prove his title as well as possession and as the plaintiff in O.S.No.655 of 2006 sought for cancellation of registration of sale deed, has got an obligation to prove that such sale deed was executed without any title. However, since the appellant herein had also filed a suit vide O.S.No.753 of 2006, she has to prove her contention including the right of her vendor under a Will Deed as well as the flow of title in her favour under a valid sale deed. When the appellant herein took a specific stand that her vendor got the properties by virtue of a Will, she is under obligation to establish the execution of Will and right of her vendor by valid and acceptable evidence. The appellant herein did not choose to prove the Will, thereby the sale deed said to have been executed by her vendor is of no value.

15. As per the recitals of the above referred Ekararnama, it appears that the said document was executed in favour



of the plaintiff in O.S.No.655 of 2006 by Linga Nagabhushanam, Linga Venkataiah and as per the document they have already partitioned their properties and they got their respective shares in the ancestral properties and while defining the share that fell to the plaintiff, they gave their no objection in favour of the respondent-plaintiff for his exclusive enjoyment. It is not a relinquishment deed as claimed by the appellant, nor a document through which some properties were allotted. There is a clear recital in the document that the family properties were already settled among the family members. Therefore, the respondent by his oral evidence as well as documents produced before the trial Court was able to prove that the properties owned by Naganna and which were subsequently devolved upon his sons were settled among the grand children and he was allotted a particular share which is shown in the plaint schedule.

16. Whereas the appellant who has also filed a separate suit for perpetual injunction based on an alleged Will was not able to prove the execution of Will and allotment of the

properties in favour of her vendor, thereby could not have established her title or possession on the property. Therefore, simply by claiming that the Ekararnama which is marked as Ex.A1 is inadmissible, cannot claim title over the suit schedule property. Therefore, the trial Court as well as the 1<sup>st</sup> appellate Court have appreciated the evidence in a correct way and came to a correct conclusion while dismissing the suit filed by the present appellant and while granting a decree in favour of the plaintiff in O.S.No.655 of 2006. Therefore, there are no grounds to set aside the impugned Judgement. Accordingly, both these appeals are liable to be dismissed.

17. **In the result**, both the appeals are dismissed. No costs.

As a sequel, pending Miscellaneous Applications, if any, shall stand closed.

Sd/- M. RAMANA KRISHNA  
DEPUTY REGISTRAR  
SECTION OFFICER

//TRUE COPY//

To,

1. The VI Additional District and Sessions Judge, Ranga Reddy at Malkajgiri.
2. The XVI Additional District and Sessions Judge, Ranga Reddy District at Malkajgiri.
3. The Principal Junior Civil Judge at Medchal, Ranga Reddy District.
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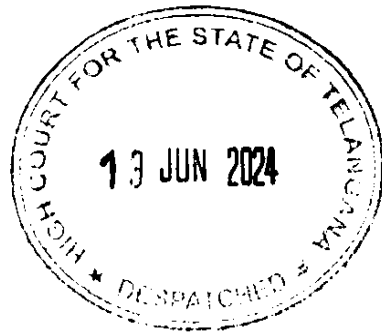
2024:TSHC:48926

HIGH COURT

DATED:07.03.2024

COMMON JUDGMENT :

SA.NOS.258 AND 290 of 2017



BOTH THE SECOND APPEALS  
ARE DISMISSED. NO COSTS

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2024:TSHC:18926

**SA NOS: 258 AND 290 OF 2017 :**

These Second Appeals coming on for hearing and upon perusing the petition and the grounds filed herein and upon hearing the arguments of Sri Setty Ravi Teja, Advocate for the Appellants in both the Second Appeals and of Sri Venkatesh Deshpande, Advocate for the Respondents in both the Second Appeals.

THIS COURT DOTH ORDERED AS FOLLOWS :

- 1) That both the appeals are dismissed.
- 2) That there shall be no order as to costs.

**Sd/- M. RAMANA KRISHNA**  
**DEPUTY REGISTRAR**  
*RBV*  
**SECTION OFFICER**

//TRUE COPY//

To,

1. The VI Additional District and Sessions Judge, Ranga Reddy at Malkajgiri.
2. The XVI Additional District and Sessions Judge, Ranga Reddy District at Malkajgiri.
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2024:TSHC:18926

HIGH COURT

DATED:07.03.2024

COMMON DECREE :

SA.NOS.258 AND 290 of 2017

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